

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of In the Matter of Application of	)	
	)	
DCT Transmission, L.L.C.	)	FCC File Nos. 9510294, 9600073
	)	
For Authority to Establish new Point-to-Point	)	
Microwave Facilities in the 39 GHz Frequency	)	
Band in the Areas of Spokane, Washington and	)	
Kalamazoo, Michigan	)	

**ORDER ON RECONSIDERATION**

**Adopted: April 7, 2000**

**Released: April 10, 2000**

Before the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. The Public Safety and Private Wireless Division (Division) has before it a petition for reconsideration (Petition) filed by DCT Transmission, L.L.C. (DCT) on March 27, 2000. DCT requests further reconsideration of a Division *Order* which affirmed the dismissal of the above-captioned applications for authorization to provide service in the 38.6 to 40.0 GHz (39 GHz) band.<sup>1</sup>

2. We have analyzed the Petition and conclude that we properly decided the matters raised. The Petition is devoid of any evidence that the Division's actions were inconsistent with Commission precedent or policy. In this regard, we note that the Commission established and affirmed a processing policy concerning 39 GHz channels that includes the dismissal of (a) applications that failed to meet the thirty-day public notice requirement as of November 13, 1995; (b) all new applications, major modification applications and amendments filed on or after November 13, 1995; and (c) applications whose mutual exclusivity was not resolved by December 15, 1995 and amendments resolving mutual exclusivity that were filed on or after December 15, 1995.<sup>2</sup> In addition, the Commission's Rules provide for the dismissal of mutually exclusive applications and late-filed competing applications.<sup>3</sup> Our review of the Petition and the Division's *Order* that was the subject thereof indicate that the Division's action with respect to the subject applications was consistent with and pursuant to the Commission's 39 GHz processing policy. Therefore, we affirm our decision for the reasons stated therein, and find no reason to disturb it.

<sup>1</sup> See DCT Transmission, L.L.C., *Order on Reconsideration*, DA 00-379 (PSPWD WTB rel. Feb. 25, 2000).

<sup>2</sup> See Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands, *Report and Order and Second Notice of Proposed Rulemaking*, ET Docket No. 95-183, 12 FCC Rcd 18600, 18639-45 ¶¶ 83-97 (1997); *aff'd* Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands, *Memorandum Opinion and Order*, 14 FCC Rcd 12428, 12440-51 ¶¶ 19-44 (1999).

<sup>3</sup> See 47 C.F.R. § 21.31 (b)(2)(i) (1995); 47 C.F.R. § 101.45(b)(2)(i) (disposition of mutually exclusive applications). See also 47 C.F.R. § 1.934 (dismissal of defective applications).

3. Accordingly, IT IS ORDERED that pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the Petition for Reconsideration filed by DCT Transmission on March 27, 2000 IS DENIED.

4. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry  
Chief, Public Safety and Private Wireless Division  
Wireless Telecommunications Bureau